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[Proposed] Lead Counsel for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

GUOHUA ZHU, INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

Plaintiff,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU, AND  
EBRAHIM SHABUDIN,

Defendants.

*Caption continues*

Case No. CV 09-04208-JSW

**KYUNG CHO'S OPPOSITION TO  
COMPETING LEAD PLAINTIFF  
MOTIONS**

CLASS ACTION

**Hon. Jeffrey S. White**

Hearing Date: December 18, 2009

Time: 9:00 a.m.

Courtroom: 11, 19<sup>th</sup> Floor

HUY TRAN, Individually and Behalf of All Others  
Similarly Situated,

Plaintiff,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU, AND  
CRAIG ON,

Defendants.

Case No. CV 09-04429-JSW

CLASS ACTION

WATERFORD TOWNSHIP GENERAL  
EMPLOYEES RETIREMENT SYSTEM,  
Individually and on Behalf of All Others  
Similarly Situated,

Plaintiff,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU,  
CRAIG S. ON and EBRAHIM SHABUDIN,

Defendants.

Case No. CV 09-04449-MHP

CLASS ACTION

SALVADOR PEREZ, Individually and  
on Behalf of All Others Similarly Situated,

Plaintiff,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU,  
CRAIG S. ON and EBRAHIM SHABUDIN,

Defendants.

Case No. CV 09-04492-JSW

CLASS ACTION

*Caption continues*

DANIEL NYGAARD, WENDY FONG, and  
JAMES ELAM, on Behalf of Themselves and All  
Others Similarly Situated,

Plaintiffs,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU,  
CRAIG S. ON and EBRAHIM SHABUDIN,

Defendants.

Case No. CV 09-04505-VRW

CLASS ACTION

DOMINIQUE DURBIN, Individually and Behalf  
of All Others Similarly Situated,

Plaintiff,

vs.

UCBH HOLDINGS, INC., THOMAS S. WU, AND  
CRAIG ON,

Defendants.

Case No. CV 09-04513-JSW

CLASS ACTION

### **KYUNG CHO'S OPPOSITION TO COMPETING LEAD PLAINTIFF MOTIONS**

Movant Kyung Cho ("Cho") lost over \$1.7 million<sup>1</sup> in his purchases of UCBH Holdings, Inc. ("UCBH") stock during the class period. Cho has the largest loss of any single individual or entity. The only movant who purportedly lost more is the self-styled "Yan Group"<sup>2</sup>—consisting of Bai Zhi Yan and two entities Yan Properties, Inc. and Daylee Home Brother, Inc.

While the Yan Group collectively asserts a larger financial interest than Cho, the Group does not satisfy the typicality and adequacy requirements of Rule 23. It is critical to note that courts determining the most adequate lead plaintiff do not merely perform a rote mathematical

<sup>1</sup> Assuming a zero lookback price, Cho lost over \$2.5 million.

<sup>2</sup> The Yan Group claims over \$2.7 million in lookback losses. Bai Zhi Yan claims approximately \$440,000 in loss, Yan Properties, Inc. claims approximately \$1.3 million in loss, and Daylee Home Brother, Inc. claims approximately \$978,000 in loss. Docket no 44-1.

1 calculation of comparing alleged losses. Numerical loss is only the first step in the process. The  
 2 second step is analyzing a proposed lead plaintiff's typicality and adequacy under Rule 23.

3 Here, the Yan Group cannot satisfy the requirements of Rule 23 for several reasons.  
 4 There are serious questions about whether the entity members of the Yan Group are properly  
 5 before the Court. Bai Zhi Yan signed the PSLRA certifications of Daylee Home Brother, Inc.  
 6 and Yan Properties, Inc. (the "Entities") as their "sole owner," however securities filings made  
 7 by the Entities with the California Department of Corporations indicate that both Entities had  
 8 conducted private offerings of its securities. *See* Declaration of Laurence M. Rosen, filed  
 9 herewith, ("Rosen Decl.") Ex. 1. Not only does this call into question whether the Entities are  
 10 properly authorized to serve as part of a lead plaintiff group, but raises serious questions about  
 11 the credibility and diligence of Bai Zhi Yan. Indeed, the certifications were signed under penalty  
 12 of perjury. *See In re NYSE Specialists Sec. Litig.*, 240 F.R.D. 128, 144 (S.D.N.Y. 2007)  
 13 (explaining that in determining adequacy under Rule 23, courts have considered characteristics  
 14 such as honesty, trustworthiness, and credibility); *see also, In re Vonage IPO Sec. Litig.*, 2007  
 15 WL 2683636, at \* 8 & n. 8 (D.N.J. Sept. 6, 2008) (holding proposed lead plaintiff inadequate,  
 16 because of among other things, "misinformation" stated in certification).

17 There's more. Each of the certifications Yan signed state that he reviewed a complaint  
 18 "and authorized its filing." Docket no. 44-1, at 6, 9, 14. Yet the Group, Yan or the Entities  
 19 never filed a complaint.<sup>1</sup> Moreover, the certifications Yan incorrectly executed are all dated  
 20 November 9, 2009-- *the day before* the lead plaintiff deadline. *Id.* Taken collectively, these  
 21 facts demonstrate that the Bai Zhi Yan is not (or is unable to be) aware of what he agreed to in  
 22 executing the PSLRA certifications.

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23  
 24  
 25  
 26 <sup>1</sup> Additionally, the Yan Group's motion does not comply with L-R 3-7(c) because the Group has not  
 27 stated that they have adopted in the allegations in the complaint they reviewed or explicitly stated in their  
 28 opening papers the claims they intend to assert. Rather in its opening papers, the Yan Group merely  
 provides a "Summary of Action" section which summarizes one of the related actions. Docket no. 44, at  
 p. 3.

1        Lastly, the Yan Group, has failed to submit *any* information as to when, why, and how  
 2 the group came to be formed. Though many courts are reluctant<sup>1</sup> to appoint lead plaintiff groups,  
 3 courts may appoint lead plaintiff groups that submit evidence as to how and when the group  
 4 came together, information about its members, its cooperative efforts, and the group's  
 5 functioning. *See Terragon Corp.*, 2007 WL 4302732, at \* 2 (S.D.N.Y. Dec. 6, 2007) ("there  
 6 must be some evidence that the members of the group will act collectively and separately from  
 7 their lawyers.") (citing *Weltz v. Lee*, 199 F.R.D. 129, 132-33 (S.D.N.Y. 2001)); *Local 144*  
 8 *Nursing Home Pension Fund v. Honeywell Int'l, Inc.*, 2000 WL 33173017, at \* 4 (D.N.J. Nov.  
 9 16, 2006) (group submitted declaration advising of members' sophistication, involvement in the  
 10 case thus far, etc.); *In re Nature's Sunshine Products, Inc.*, 2006 WL 2380965, at \* 1 (D. Utah  
 11 Aug. 16, 2006) (proposed group submitted affidavits demonstrating cooperative efforts and did  
 12 not combine at the last minute).<sup>2</sup>

13        In contrast to the Yan Group and the uncertainties surrounding its members, Cho is not a  
 14 member of a lawyer-made group, there are no questions about his credibility or diligence, and he  
 15 has suffered the largest loss of any single person or entity and made a *prima facie* demonstration  
 16 of his adequacy and typicality. Therefore, the Court should appoint him as Lead Plaintiff in this  
 17 action.

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22  
 23 <sup>1</sup> *See e.g., Aronson v. McKesson HBOC, Inc.*, 79 F. Supp. 2d 1146, 1154 (N.D. Cal. 1999) ("the lead  
 24 plaintiff must be an individual person or entity, or at most, a close-knit 'group' of persons"); *In re*  
 25 *Gemstar-TV Guide Int'l, Inc. Sec. Litig.*, 209 F.R.D. 447, 451 (C.D. Cal. 2002); *In re Enron Corp. Sec.*  
 26 *Litig.*, 206 F.R.D. 427, 442 (S.D. Tex. 2002) (a proposed lead plaintiff group bears "the burden of  
 demonstrating that the group not only has the largest financial interest in the outcome of the litigation, but  
 also a pre-litigation relationship based on more than the losing investments at issue in the securities fraud  
 class action"); *In re Donnkenny Sec. Litig.*, 171 F.R.D. 156, 158 (S.D.N.Y. 1997)

27 <sup>2</sup> Scant information is available on Yan and his Entities on the internet. However internet searches  
 28 reveal that, an Alex Yan, a former UCBH employee, pleaded guilty to embezzlement charges in February  
 of 2009. *See Rosen Decl., Ex. 2.* Bai Zhi Yan should be required to explain that Alex Yan is not a  
 relative, business associate, or otherwise connected to Yan and the Entities.

Dated: November 25, 2009

Respectfully submitted,

**THE ROSEN LAW FIRM, P.A.**

/s/ Laurence Rosen, Esq.

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[Proposed] Lead Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I, Laurence M. Rosen, pursuant to 28 U.S.C. §1746, hereby declare under penalty of perjury as follows:

I am the managing attorney of the Rosen Law Firm, P.A. I am over the age of eighteen.

On November 25, 2009, I electronically filed the following **KYUNG CHO'S OPPOSITION TO COMPETING LEAD PLAINTIFF MOTIONS** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

On the same date I also caused the document to be submitted to the Stanford Law School Class Action Clearinghouse via email to scac@law.stanford.edu.

Executed on November 25, 2009.

/s/ Laurence Rosen

Laurence M. Rosen